



General Assembly

**Amendment**

January Session, 2005

LCO No. 7525

**\*SB0115107525SD0\***

Offered by:

SEN. STILLMAN, 20<sup>th</sup> Dist.

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To: Subst. Senate Bill No. **1151**

File No. 313

Cal. No. 273

**"AN ACT REDUCING THE SULFUR CONTENT OF HOME HEATING  
OIL AND OFF-ROAD DIESEL FUEL."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 22a-449 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) The Commissioner of Environmental Protection shall, to the  
6 extent possible, immediately, whenever there is discharge, spillage,  
7 uncontrolled loss, seepage or filtration of oil or petroleum or chemical  
8 liquids or solid, liquid or gaseous products or hazardous wastes upon  
9 any land or into any of the waters of the state or into any offshore or  
10 coastal waters, which may result in pollution of the waters of the state,  
11 damage to beaches, wetlands, stream banks or coastal areas, or  
12 damage to sewers or utility conduits or other public or private  
13 property or which may create an emergency, cause such discharge,  
14 spillage, uncontrolled loss, seepage or filtration to be contained and

15 removed or otherwise mitigated by whatever method said  
16 commissioner considers best and most expedient under the  
17 circumstances. The commissioner shall also (1) determine the person,  
18 firm or corporation responsible for causing such discharge, spillage,  
19 uncontrolled loss, seepage or filtration, and (2) send notice, in writing,  
20 to the chief executive officer and the local director of health of the  
21 municipality in which such discharge, spillage, uncontrolled loss,  
22 seepage or filtration occurs of such occurrence. Such notification shall  
23 be sent not later than twenty-four hours after the commissioner  
24 becomes aware of the contamination.

25 (b) The commissioner may: (1) License terminals in the state for the  
26 loading or unloading of oil or petroleum or chemical liquids or solid,  
27 liquid or gaseous products or hazardous wastes and shall adopt, in  
28 accordance with chapter 54, reasonable regulations in connection  
29 therewith for the purposes of identifying terminals subject to licensure  
30 and protecting the public health and safety and for preventing the  
31 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
32 petroleum or chemical liquids or solid, liquid or gaseous products or  
33 hazardous wastes. Each license issued under this section shall be valid  
34 for a period of not more than three years commencing July first, unless  
35 sooner revoked by the commissioner, and there shall be charged for  
36 each such license or renewal thereof fees established by regulation  
37 sufficient to cover the reasonable cost to the state of inspecting and  
38 licensing such terminals; (2) provide by regulations for the  
39 establishment and maintenance in operating condition and position of  
40 suitable equipment to contain as far as possible the discharge, spillage,  
41 uncontrolled loss, seepage or filtration of any oil or petroleum or  
42 chemical liquids or solid, liquid or gaseous products or hazardous  
43 wastes; (3) inspect periodically all hoses, gaskets, tanks, pipelines and  
44 other equipment used in connection with the transfer, transportation  
45 or storage of oil or petroleum or chemical liquids or solid, liquid or  
46 gaseous products or hazardous wastes to make certain that they are in  
47 good operating condition, and order the renewal of any such  
48 equipment found unfit for further use. No person shall commence

49 operation of any such terminal in this state on or after July 1, 1993,  
50 without a license issued by the commissioner. Any person who  
51 operates any such terminal without a license issued by the  
52 commissioner shall be fined not more than five thousand dollars per  
53 day during any period of unlicensed operation.

54 (c) The commissioner may establish such programs and adopt, in  
55 accordance with chapter 54, and enforce such regulations as he deems  
56 necessary to carry out the intent of sections 22a-133a to 22a-133j,  
57 inclusive, sections 22a-448 to 22a-454, inclusive, and Subtitle C of the  
58 Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.),  
59 as amended from time to time, except that actions pursuant to the  
60 state's hazardous waste program shall be brought under the provisions  
61 of sections 22a-131 and 22a-131a.

62 (d) The Commissioner of Environmental Protection in consultation  
63 with the Commissioner of Public Safety may establish by regulations  
64 adopted in accordance with the provisions of chapter 54 standards and  
65 criteria for the nonresidential underground storage of oil, petroleum  
66 and chemical liquids which may include but not be limited to  
67 standards and criteria for the design, installation, operation,  
68 maintenance and monitoring of facilities for the underground storage  
69 and handling of such liquids. [Each nonresidential underground  
70 storage facility which, pursuant to regulations adopted pursuant to  
71 this section, submits notification of installation to the commissioner  
72 after July 1, 1990, shall submit a notification fee of one hundred dollars  
73 per tank.] The Commissioner of Environmental Protection may  
74 establish such programs and adopt, in accordance with chapter 54, and  
75 enforce such regulations as he deems necessary to carry out the intent  
76 of Subtitle I of the Resource Conservation and Recovery Act of 1976 (42  
77 USC 6901, et seq.), as amended from time to time.

78 (e) The fee for the inspection of each nonresidential underground  
79 storage facility which, pursuant to regulations adopted pursuant to  
80 this section, submits notification to the commissioner shall be one  
81 hundred dollars per tank, provided such fee may not be charged more

82 than once every five years.

83 (f) The Commissioner of Environmental Protection may adopt  
84 regulations, in accordance with the provisions of chapter 54, to  
85 establish (1) requirements for the inspection of nonresidential  
86 underground storage tank systems for compliance with the  
87 requirements of this chapter, including, but not limited to, the  
88 minimum frequency, method and content of inspections, and  
89 maintenance and disclosure of results, (2) a program to authorize  
90 persons to (A) perform inspections, including, but not limited to,  
91 education and training requirements for such persons, and whether or  
92 not such persons may be employed by the owner or operator of the  
93 subject nonresidential underground storage tank system, (B) determine  
94 whether the violations for which a nonresidential underground  
95 storage tank system has been taken out of service pursuant to  
96 subsection (g) of this section have been corrected, which regulations  
97 may include, but not be limited to, a prohibition for an owner or  
98 operator of any such system from placing such system back into  
99 service pursuant to subsection (g) of this section after the regulations  
100 take effect or additional requirements for an owner or operator of any  
101 such system, and (C) requirements, in addition to the requirements  
102 contained in subsection (g) of this section, relating to the prohibition of  
103 deliveries to and the use of nonresidential underground storage tank  
104 systems that are not in compliance with section 22a-449o or with the  
105 requirements of this section and any regulations adopted under this  
106 section.

107 (g) (1) If the commissioner determines that there is a release from a  
108 nonresidential underground storage tank system or that such system  
109 (A) is not designed, constructed, installed and operated in accordance  
110 with section 22a-449o or regulations adopted pursuant to this section,  
111 (B) fails to have or operate proper release detection equipment in  
112 accordance with regulations adopted pursuant to this section, or (C)  
113 fails to have or operate proper overfill and spill protection measures or  
114 equipment in accordance with regulations adopted pursuant to this  
115 section, then the commissioner may require the owner or operator of

116 the nonresidential underground storage tank system to pump out the  
117 contents of its system, and the commissioner may place a notice on a  
118 system that is plainly visible, indicating that the system is not in  
119 compliance with the requirements applicable to nonresidential  
120 underground storage tank systems and that such system cannot be  
121 used and deliveries to such system cannot be accepted, or the  
122 commissioner may disable the use of such system by placing a  
123 disabling device on the system that prohibits deliveries to such system.  
124 Any action pursuant to this subdivision shall not be based solely on  
125 requirements relating to reporting or recordkeeping. No person shall  
126 make deliveries to any nonresidential underground storage tank  
127 system bearing the notice described in this subdivision or on which the  
128 commissioner has placed a disabling device. The owner or operator of  
129 such system shall ensure that any such system is not used for  
130 dispensing a product or receiving deliveries while any notice or  
131 disabling device has been placed upon such system. Except as  
132 provided in subdivision (3) of this subsection, no person or  
133 municipality shall remove, alter, deface or tamper with any notice or  
134 disabling device placed by the commissioner pursuant to this  
135 subdivision.

136 (2) Not later than two business days after placing a notice or  
137 disabling device on a nonresidential underground storage tank system  
138 pursuant to subdivision (1) of this subsection, the commissioner shall  
139 provide the owner or operator of the affected underground storage  
140 tank system with an opportunity for a hearing. Any such hearing shall  
141 be limited to whether the violation upon which the commissioner took  
142 action under subdivision (1) of this subsection occurred and whether  
143 such violation is continuing.

144 (3) A nonresidential underground storage tank system upon which  
145 a notice or disabling device has been placed pursuant to subdivision  
146 (1) of this subsection shall not be put back into service and shall not be  
147 used for dispensing a product or receiving deliveries until the  
148 violations that caused the notice or disabling device to be placed have  
149 been corrected to the satisfaction of (A) the commissioner, or (B) a

150 person who, pursuant to regulations adopted pursuant to subsection  
151 (f) of this section, has been authorized by the commissioner to  
152 determine whether such violations have been corrected. The  
153 commissioner shall determine whether any applicable violation has  
154 been corrected not later than twenty-four hours after being contacted  
155 by the owner or operator of the underground storage tank system that  
156 any such violation has been fully corrected. Notwithstanding the  
157 provisions of this subdivision, until the commissioner authorizes  
158 persons to determine whether violations have been corrected pursuant  
159 to regulations adopted pursuant to subsection (f) of this section, the  
160 owner or operator of an underground storage tank system upon which  
161 a notice or a disabling device has been placed by the commissioner  
162 may place such system back into service, where, not later than twenty-  
163 four hours after being contacted by the owner or operator, the  
164 commissioner has not determined whether any applicable violation  
165 has been corrected and on the day any such system is returned to  
166 service or the next business day in the event such day is a Saturday,  
167 Sunday or legal holiday, the owner or operator provides the  
168 commissioner with a written affidavit fully describing all actions taken  
169 to correct the violations that caused a notice or disabling device to be  
170 placed upon such system and certifying that all such violations were  
171 fully corrected before any such system was returned to service.

172 (4) Nothing in this subsection shall affect the authority of the  
173 commissioner under any other statute or regulation.

174 (h) The person submitting a notification of installation for a  
175 nonresidential underground storage tank or underground storage tank  
176 system pursuant to regulations adopted pursuant to this section shall  
177 submit with such notification a notification fee of one hundred dollars  
178 per tank.

179 [(f)] (i) Any moneys collected for the issuance or renewal of a  
180 license, pursuant to subsection (b) of this section or regulations  
181 adopted pursuant to said subsection, shall be deposited in the General  
182 Fund.

183 Sec. 2. Section 22a-449a of the general statutes is repealed and the  
184 following is substituted in lieu thereof (*Effective from passage*):

185 As used in this section and sections 22a-449c to 22a-449m, inclusive,  
186 and section 7 of this act:

187 (1) "Petroleum" means crude oil, crude oil fractions and refined  
188 petroleum fractions, including gasoline, kerosene, heating oils and  
189 diesel fuels;

190 (2) "Release" means any spilling, leaking, pumping, pouring,  
191 emitting, emptying, discharging, injecting, escaping, leaching,  
192 dumping or disposing of petroleum from any underground storage  
193 tank or underground storage tank system;

194 (3) "Responsible party" means (A) for an application or request for  
195 payment or reimbursement received by the board before July 1, 2005,  
196 or for a determination regarding a person's status as a responsible  
197 party or a third party with respect to a specific release or suspected  
198 release made by the board before July 1, 2005, any person [or entity,  
199 including the state and any political subdivision of the state, which]  
200 who owns or operates an underground storage tank or underground  
201 storage tank system from which a release or suspected release  
202 emanates, (B) for an application or request for payment or  
203 reimbursement received by the board on or after July 1, 2005, any  
204 person who (i) at any time owns, leases, uses or has an interest in the  
205 real property on which an underground storage tank system is or was  
206 located from which there is or has been a release or suspected release,  
207 regardless of when the release or suspected release occurred, or  
208 whether such person owned, leased, used or had an interest in the real  
209 property at the time the release or suspected release occurred, or  
210 whether such person owned, operated, leased or used the  
211 underground storage tank system from which the release or suspected  
212 release occurred, (ii) at any time owns, leases, operates, uses, or has an  
213 interest in an underground storage tank system from which there is or  
214 has been a release or suspected release, regardless of when the release

215 or suspected release occurred or whether such person owned, leased,  
216 operated, used or had an interest in the underground storage tank  
217 system at the time the release or suspected release occurred, or (iii) is  
218 affiliated with a person described in subclause (i) or (ii) of this  
219 subparagraph through a direct or indirect familial relationship or any  
220 contractual, corporate or financial relationship;

221 (4) "Underground storage tank" means a tank or combination of  
222 tanks, including underground pipes connected thereto, used to contain  
223 an accumulation of petroleum, whose volume is ten per cent or more  
224 beneath the surface of the ground, including the volume of  
225 underground pipes connected thereto;

226 (5) "Underground storage tank system" means an underground  
227 storage tank and any associated ancillary equipment and containment  
228 system; [and]

229 (6) "Residential underground heating oil storage tank system"  
230 means (A) an underground storage tank system used in connection  
231 with residential real property composed of four residential units or  
232 fewer, or (B) a storage tank system and any associated ancillary  
233 equipment used in connection with residential real property composed  
234 of four residential units or fewer; and

235 (7) "Person" means any individual, firm, partnership, association,  
236 syndicate, company, trust, corporation, limited liability company,  
237 municipality, agency or political or administrative subdivision of the  
238 state, or other legal entity of any kind.

239 Sec. 3. Section 22a-449c of the general statutes is repealed and the  
240 following is substituted in lieu thereof (*Effective from passage*):

241 (a) (1) There is established an account to be known as the  
242 "underground storage tank petroleum clean-up account". The  
243 underground storage tank petroleum clean-up account shall be an  
244 account of the Environmental Quality Fund. Notwithstanding any  
245 provision of the general statutes to the contrary, any moneys collected



246 shall be deposited in the Environmental Quality Fund and credited to  
247 the underground storage tank petroleum clean-up account. Any  
248 balance remaining in said account at the end of any fiscal year shall be  
249 carried forward in said account for the fiscal year next succeeding.

250 (2) The account shall be used by the Commissioner of  
251 Environmental Protection to provide money for reimbursement or  
252 payment pursuant to section 22a-449f to responsible parties or parties  
253 supplying goods or services, [or both, to responsible parties] for costs,  
254 expenses and other obligations paid or incurred, as the case may be, as  
255 a result of releases, and suspected releases, costs of investigation and  
256 remediation of releases and suspected releases, and [third party] for  
257 claims by a person other than a responsible party for bodily injury,  
258 property damage and damage to natural resources that have been  
259 finally adjudicated or settled with the prior written consent of the  
260 board. The commissioner may also make payment from the account to  
261 an assignee who is in the business of receiving assignments of amounts  
262 approved by the board, but not yet paid from the account, provided  
263 the party making any such assignment, using a form approved by the  
264 commissioner, directs the commissioner to pay such assignee, that no  
265 cost of any assignment shall be borne by the account and that the state  
266 and its agencies shall not bear any liability with respect to any such  
267 assignment.

268 (3) Notwithstanding the provisions of this section regarding  
269 reimbursements of parties pursuant to section 22a-449f, as amended by  
270 this act, regulations promulgated pursuant to section 22a-449e, as  
271 amended by this act, and regardless of when an application for  
272 payment or reimbursement from the account may have been  
273 submitted to the board, [after] payment or reimbursement shall be  
274 made in accordance with the following: (A) After June 1, 2004, no  
275 payment or reimbursement shall be made for any costs, expenses and  
276 other obligations paid or incurred for remediation, including any  
277 monitoring to determine the effectiveness of the remediation, of a  
278 release to levels more stringent than or beyond those specified in the  
279 remediation standards established pursuant to section 22a-133k, except

280 to the extent the applicant demonstrates that it has been directed  
281 otherwise, in writing, by the [Department of Environmental  
282 Protection] commissioner; (B) after June 1, 2005, no payment or  
283 reimbursement from the account shall be made to any person for  
284 diminution in property value or interest; and (C) after June 1, 2005, no  
285 payment or reimbursement from the account shall be made for  
286 attorneys' fees or other costs of legal representation paid or incurred as  
287 a result of a release or suspected release (i) in excess of five thousand  
288 dollars to any responsible party, (ii) in excess of ten thousand dollars  
289 to any person other than a responsible party, and (iii) by a responsible  
290 party regarding the defense of claims brought by another person. In  
291 addition, notwithstanding the provisions of this section regarding  
292 reimbursements of parties pursuant to section 22a-449f, the responsible  
293 party [for a release] shall bear all costs of the release that are less than  
294 ten thousand dollars [or] and all persons shall bear all costs of the  
295 release that are more than one million dollars, except that for any such  
296 release which was reported to the department prior to December 31,  
297 1987, and for which more than five hundred thousand dollars has been  
298 expended by the responsible party to remediate such release prior to  
299 June 19, 1991, the responsible party for the release shall bear all costs of  
300 such release which are less than ten thousand dollars or more than five  
301 million dollars, provided the portion of any reimbursement or  
302 payment in excess of three million dollars may, at the discretion of the  
303 commissioner, be made in annual payments for up to a five-year  
304 period. There shall be allocated to the department annually, for  
305 administrative costs, two million dollars.

306 (b) There is established a subaccount within the underground  
307 storage tank petroleum clean-up account to be known as the  
308 "residential underground heating oil storage tank system clean-up  
309 subaccount" to be used solely for the provision of reimbursements  
310 under sections 22a-449l and 22a-449n, for the remediation of  
311 contamination attributed to residential underground heating oil  
312 storage tank systems. The subaccount shall hold the proceeds of the  
313 bond funds allocated pursuant to section 51 of public act 00-167\*.

314     (c) There is established a subaccount within the underground  
315 storage tank petroleum clean-up account to be known as the "pay for  
316 performance subaccount" with which the commissioner may  
317 implement a program, in consultation with the board, in which  
318 reimbursement or repayment in accordance with this section is based  
319 upon the achievement of environmental milestones or results. The  
320 commissioner, with the approval of the board, may enter into contracts  
321 to implement any such program.

322     (d) (1) If an initial application or request for payment or  
323 reimbursement is received by the board before July 1, 2005, no  
324 supplemental application or request for payment or reimbursement  
325 shall be submitted to the board on or after October 1, 2009, regarding  
326 costs, expenses or other obligations paid or incurred in response to the  
327 release or suspected release noted in any such initial application or  
328 request for payment or reimbursement. The provisions of this  
329 subdivision shall apply regardless of whether the cost, expense or  
330 other obligation was paid or incurred before October 1, 2009, and no  
331 reimbursement or payment from the account shall be ordered by the  
332 board or made by the commissioner regarding any such supplemental  
333 application or request for payment or reimbursement received by the  
334 board on or after the October 1, 2009, deadline established in this  
335 subdivision.

336     (2) If an initial application or request for payment or reimbursement  
337 is received by the board on or after July 1, 2005, no supplemental  
338 application or request for payment or reimbursement shall be  
339 submitted to the board more than five years after the date that the  
340 initial application or request for payment or reimbursement was  
341 received by the board, regarding costs, expenses or other obligations  
342 paid or incurred in response to the release or suspected release noted  
343 in such initial application or request for payment or reimbursement.  
344 The provisions of this subdivision shall apply regardless of whether a  
345 cost, expense or other obligation was paid or incurred before the  
346 expiration of the five-year deadline established in this subdivision and  
347 no reimbursement or payment from the account shall be ordered by

348 the board or made by the commissioner regarding any such  
349 supplemental application or request for payment or reimbursement  
350 received by the board after the five-year deadline established in this  
351 subdivision.

352 (3) Notwithstanding the provisions of subsection (i) of section 22a-  
353 449f, if an application or request for payment or reimbursement is not  
354 brought before the board for a decision not later than six months after  
355 having been received by the board, then six months shall be added to  
356 the deadline applicable pursuant to subdivision (1) or (2) of this  
357 subsection, provided no more than two years shall be added to the  
358 deadline established pursuant to subdivision (1) or (2) of this  
359 subdivision regardless of whether one or more applications or requests  
360 for payment or reimbursement have been received by the board but  
361 have not been brought before the board for a decision not later than six  
362 months after receipt. In addition, if the commissioner determines that  
363 an application or request for payment or reimbursement is ready for  
364 decision by the board and such application or request has been placed  
365 on the agenda for the meeting of the board, but cannot be brought  
366 before the board because the board is unable to meet or cannot act on  
367 such application or request, the deadlines established pursuant to  
368 subdivision (1) or (2) of this subdivision shall also be extended only for  
369 that period that the board is unable to meet or is unable to act on such  
370 application or request.

371 (4) The provisions of this subsection shall not apply to annual  
372 groundwater remedial actions, including the preparation of a  
373 groundwater remedial action progress report, performed pursuant to  
374 subdivision (6) of section 7 of this act. Notwithstanding the provisions  
375 of this subsection, the board may continue to receive applications or  
376 requests for payment or reimbursement and provided all other  
377 requirements have been met, may order payment or reimbursement  
378 from the account for such activities.

379 (e) (1) Any person who has insurance, or a contract or other  
380 agreement to provide payment or reimbursement for any costs,

381 expense or other obligation paid or incurred in response to a release or  
382 suspected release may submit an application or request seeking  
383 payment or reimbursement from the account to the board, provided  
384 any such application or request for payment or reimbursement shall be  
385 subject to all applicable requirements, including, but not limited to,  
386 subdivision (7) of subsection (c) of section 22a-449f.

387 (2) Any person who at any time receives or expects to receive  
388 payment or reimbursement from any source other than the account for  
389 any cost, expense, obligation, damage or injury for which such person  
390 has received or has applied for payment or reimbursement from the  
391 account, shall notify the board, in writing, of such supplemental or  
392 expected payment and shall, not more than thirty days after receiving  
393 such supplemental payment, repay the underground storage tank  
394 petroleum clean-up fund all such amounts received from any other  
395 source.

396 (3) If the board determines that a person is seeking or has sought  
397 payment or reimbursement for any cost, expense, obligation, damage  
398 or injury from the account and that payment or reimbursement for any  
399 such cost, expense, obligation, damage or injury is actually or  
400 potentially available to any such person from any source other than the  
401 account, the board may impose any conditions it deems reasonable  
402 regarding any amount it orders to be paid from the account.

403 Sec. 4. Section 22a-449d of the general statutes is repealed and the  
404 following is substituted in lieu thereof (*Effective from passage*):

405 (a) There is established an Underground Storage Tank Petroleum  
406 Clean-Up Account Review Board. [to review applications for  
407 reimbursements and payments from the account established under  
408 section 22a-449c.] Upon application for reimbursement or payment  
409 pursuant to section 22a-449f, the board shall determine, [if a release  
410 occurred and damage resulted from such release and the amount of  
411 any such damage] based on the provisions of sections 22a-449a to 22a-  
412 449i, inclusive, as amended by this act, and all regulations adopted

413 pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or  
414 not to order payment or reimbursement from the account. The board  
415 shall have the authority to order payment from the residential  
416 underground heating oil storage tank system clean-up subaccount to  
417 registered contractors pursuant to section 22a-449l, or to owners  
418 pursuant to section 22a-449n, for reasonable costs associated with the  
419 remediation of a residential underground heating oil storage tank  
420 system based on the guidelines established pursuant to subsection (c)  
421 of this section; hold hearings, administer oaths, subpoena witnesses  
422 and documents through its chairperson when authorized by the board;  
423 designate an agent to perform such duties of the board as it deems  
424 necessary except the duty to render a final decision to order  
425 reimbursement or payment from the account; and provide by notice,  
426 printed on any form, that any false statement made thereof or  
427 pursuant thereto is punishable pursuant to section 53a-157b.

428 (b) The board shall consist of the Commissioners of Environmental  
429 Protection and Revenue Services, the Secretary of the Office of Policy  
430 and Management and the State Fire Marshal, or their designees; one  
431 member representing the Connecticut Petroleum Council, appointed  
432 by the speaker of the House of Representatives; one member  
433 representing the Service Station Dealers Association, appointed by the  
434 majority leader of the Senate; one member of the public, appointed by  
435 the majority leader of the House of Representatives; one member  
436 representing the Independent Connecticut Petroleum Association,  
437 appointed by the president pro tempore of the Senate; one member  
438 representing the [Connecticut Gasoline Retailers Association] Gasoline  
439 and Automotive Service Dealers of America, Inc., appointed by the  
440 minority leader of the House of Representatives; one member  
441 representing a municipality with a population greater than one  
442 hundred thousand, appointed by the Governor; one member  
443 representing a municipality with a population of less than one  
444 hundred thousand, appointed by the minority leader of the Senate; one  
445 member representing a small manufacturing company which employs  
446 fewer than seventy-five persons, appointed by the speaker of the

447 House of Representatives; one member experienced in the delivery,  
448 installation, and removal of residential underground petroleum  
449 storage tanks and remediation of contamination from such tanks,  
450 appointed by the president pro tempore of the Senate; and one  
451 member who is an environmental professional licensed under section  
452 22a-133v and is experienced in investigating and remediating  
453 contamination attributable to underground petroleum storage tanks,  
454 appointed by the Governor. The board shall annually elect one of its  
455 members to serve as chairperson.

456 (c) Not later than July 1, 2000, the board shall establish guidelines  
457 for determining what costs are reasonable for payment under sections  
458 22a-449l and 22a-449n and shall establish requirements for financial  
459 assurance, training and performance standards for registered  
460 contractors, as defined in said sections 22a-449l and 22a-449n. The  
461 board shall make payment pursuant to section 22a-449n to the owner  
462 at a rate not to exceed one hundred fifty-seven dollars per ton of  
463 contaminated soil removed which shall be considered as full payment  
464 for all eligible costs for remediation. For any claim filed pursuant to  
465 section 22a-449n where no contaminated soil is removed the board  
466 shall reimburse eligible costs in accordance with the guidelines  
467 pursuant to this section.

468 (d) To the extent that funds are available in the residential  
469 underground heating oil storage tank system clean-up subaccount, the  
470 board may order payment from such subaccount to registered  
471 contractors for reimbursement of eligible costs for services associated  
472 with the remediation of a residential underground heating oil storage  
473 tank system prior to July 1, 2001, to owners of such systems for  
474 payment for eligible costs incurred after July 1, 2001. No such payment  
475 shall be authorized unless the board deems the costs reasonable based  
476 on the guidelines established pursuant to subsection (c) of this section.  
477 Notwithstanding the provisions of this subsection, if the board  
478 determines that the owner may not receive reimbursement payment  
479 from the contractor, the board may, if reimbursement has not been sent  
480 to the contractor, directly reimburse the owner of such system for

481 eligible costs incurred by the owner and paid to the registered  
482 contractor for services associated with a remediation of a system prior  
483 to July 1, 2001.

484 Sec. 5. Section 22a-449e of the general statutes is repealed and the  
485 following is substituted in lieu thereof (*Effective from passage*):

486 (a) The Commissioner of Environmental Protection, after  
487 consultation with the members of the [review] board established by  
488 section 22a-449d, as amended by this act, shall adopt regulations in  
489 accordance with the provisions of chapter 54 setting forth procedures  
490 for reimbursement and payment from the account established under  
491 section 22a-449c, as amended by this act. Such regulations shall include  
492 such provisions as the commissioner deems necessary to carry out the  
493 purposes of sections 22a-449a to 22a-449h, inclusive, as amended by  
494 this act, including, but not limited to, provisions for (1) notification of  
495 eligible parties of the existence of the account; (2) records required for  
496 submission of claims and reimbursement and payment; (3) periodic  
497 and partial reimbursement and payment to enable responsible parties  
498 to meet interim costs, expenses and obligations; and (4) reimbursement  
499 and payment for costs, expenses and obligations incurred in  
500 connection with releases or suspected releases, and incurred after July  
501 5, 1989, for releases discovered before or after said date provided  
502 reimbursement and payment shall not be made for costs, expenses and  
503 obligations incurred by a responsible party on or before said date.

504 (b) (1) The commissioner, in accordance with the procedures set  
505 forth in subdivision (2) of this subsection, may prescribe a schedule for  
506 the maximum or range of amounts to be paid from the account for  
507 labor, equipment, materials, services or other costs, expenses or  
508 obligations paid or incurred as a result of a release or suspected  
509 release. Such schedule shall not be a regulation, as defined in section 4-  
510 166 and the adoption, modification, repeal or use of such schedule  
511 shall not be subject to the provisions of chapter 54 concerning a  
512 regulation. The amounts in any such schedule may be less than and  
513 shall be not more than the usual, customary and reasonable amounts



514 charged, as determined by the commissioner. Notwithstanding the  
515 provisions of sections 22a-449a to 22a-449j, inclusive, as amended by  
516 this act, or any regulation adopted by the commissioner pursuant to  
517 this section, upon adoption of any such schedule, the amount to be  
518 paid from the account for any labor, equipment, materials, services or  
519 other costs, expenses or other obligations, shall not exceed the amount  
520 established in any such schedule and such schedule may serve as  
521 guidance with respect to any costs, expenses or other obligations paid  
522 or incurred before the adoption of such schedule.

523 (2) The commissioner shall adopt, revise or revoke said schedule in  
524 accordance with the provisions of this subsection. After consultation  
525 with the board, the commissioner shall publish notice of intent to  
526 adopt, revise or revoke the schedule, or any portion thereof, in a  
527 newspaper having substantial circulation in the affected area. There  
528 shall be a comment period of thirty days following publication of such  
529 notice during which interested persons may submit written comments  
530 to the commissioner. The commissioner shall publish notice of the  
531 adoption, revision or revocation of the schedule, or part thereof, in a  
532 newspaper having substantial circulation in the affected area. The  
533 commissioner shall, upon request, review and shall make any revisions  
534 the commissioner deems necessary to such schedule not more than  
535 once every two years or may do so more frequently as the  
536 commissioner deems necessary. The commissioner, after consultation  
537 with the board, may revise or revoke the schedule, in whole or in part,  
538 using the procedures specified in this subsection. Any person may  
539 request that the commissioner adopt, revise or revoke the schedule in  
540 accordance with this subsection.

541 (c) Upon adoption of a schedule by the commissioner pursuant to  
542 subsection (b) of this section, the requirements concerning obtaining  
543 three bids for services rendered contained in regulations adopted  
544 pursuant to this section shall not apply, provided that the schedule  
545 includes the subject services.

546 (d) An environmental professional, who has a currently valid and

547 effective license issued pursuant to section 22a-133v, shall use a seal, as  
548 provided for in regulations adopted pursuant to section 22a-133v, to  
549 provide written approval required under section 22a-449c, as amended  
550 by this act, section 22a-449f and section 7 of this act, and any approval  
551 without a seal shall not constitute an approval of a licensed  
552 environmental professional. The regulations adopted pursuant to  
553 section 22a-133v regarding the use of a seal and the rules of  
554 professional conduct shall apply to the duties of a licensed  
555 environmental professional contained in sections 22a-449a to 22a-449i,  
556 inclusive, as amended by this act, and section 7 of this act.

557       Sec. 6. Section 22a-449f of the general statutes is repealed and the  
558 following is substituted in lieu thereof (*Effective from passage*):

559       (a) A responsible party may apply to the Underground Storage  
560 Tank Petroleum Clean-Up Account Review Board established under  
561 section 22a-449d, as amended by this act, for reimbursement for costs  
562 paid and payment of costs incurred as a result of a release, or a  
563 suspected release, including costs of investigating and remediating a  
564 release, or a suspected release, incurred or paid by [a responsible] such  
565 party who is determined not to have been liable for any such release. If  
566 a person [or entity,] other than a responsible party, claims to have  
567 suffered [damage or personal injury] bodily injury, property damage  
568 or damage to natural resources from a release, [and] the person with  
569 such claim shall make reasonable attempts to provide written notice to  
570 the responsible party of such claim and if such person cannot provide  
571 such notice or if the responsible party [denies there was a release or]  
572 does not apply to the board for payment of such claim not later than  
573 sixty days after receipt of such notice or such other time as may be  
574 agreed to by the parties, the person [or entity] holding such claim may  
575 apply to the board for payment for such damage or [personal] bodily  
576 injury.

577       (b) (1) In addition to all other applicable requirements, a person  
578 seeking payment or reimbursement from the account shall  
579 demonstrate that when the total costs, expenses or other obligations in

580 response to a release or suspected release (A) are two hundred fifty  
581 thousand dollars or less, that all labor, equipment and materials  
582 provided after October 1, 2005, and all services and activities  
583 undertaken after October 1, 2005, shall be approved, in writing, either  
584 by the commissioner or by a licensed environmental professional with  
585 a currently valid and effective license issued pursuant to section 22a-  
586 133v; and (B) exceeds two hundred fifty thousand dollars, that all  
587 labor, equipment and materials provided after October 1, 2005, and all  
588 services and activities undertaken after October 1, 2005, shall be  
589 approved, in writing, by the commissioner or that the commissioner  
590 has authorized, in writing, an environmental professional with a  
591 currently valid and effective license issued pursuant to section 22a-  
592 133v to approve, in writing, such labor, equipment, materials, services  
593 and activities, in lieu of a written approval by the commissioner. The  
594 provisions of this subsection shall apply to all costs, expenses or other  
595 obligations for which a person is seeking payment or reimbursement  
596 from the account and the board shall not order and the commissioner  
597 shall not make payment or reimbursement from the account for any  
598 cost, expense or other obligation, unless the person seeking such  
599 payment or reimbursement includes with an application or with a  
600 request for payment or reimbursement all written approvals required  
601 by this subdivision.

602 (2) The fees charged by a licensed environmental professional  
603 regarding labor or services rendered in response to a release or  
604 suspected release may be included in any application or request for  
605 payment or reimbursement submitted to the board. The amount to be  
606 paid or reimbursed from the account for such fees may also be  
607 established in the schedule adopted by the commissioner pursuant to  
608 subsection (b) of section 22a-449e, as amended by this act.

609 (3) Providing it is true and accurate, a licensed environmental  
610 professional shall submit the following certification regarding any  
611 approval provided under subdivision (1) of this subsection and section  
612 7 of this act: "I hereby agree that all of the labor, equipment, materials,  
613 services, and activities described in or covered by this certification was

614 appropriate under the circumstances to abate an emergency or was  
615 performed as part of a plan specifically designed to ensure that the  
616 release or suspected release is or has been investigated in accordance  
617 with prevailing standards and guidelines and remediated consistent  
618 with and to achieve compliance with the remediation standards  
619 adopted under section 22a-133k.

620 (c) The board shall order reimbursement or payment from the  
621 account for any cost paid or incurred, as the case may be, if, (1) such  
622 cost is or was incurred after July 5, 1989, (2) [the] a responsible party  
623 was or would have been required to demonstrate financial  
624 responsibility under 40 CFR Part 280.90 et seq. as said regulation was  
625 published in the Federal Register of October 26, 1988, for the  
626 underground storage tank or underground storage tank system from  
627 which the release emanated, whether or not such [owner] party is  
628 required to comply with said requirements on the date any such cost is  
629 incurred, provided if the state is the responsible party, the board may  
630 order payment from the account without regard to whether the state  
631 was or would have been required to demonstrate financial  
632 responsibility under said sections 40 CFR Part 280.90 et seq., (3) after  
633 the release, if any, the responsible party incurred a cost, expense or  
634 obligation for investigation, cleanup or for claims of [third parties] a  
635 person other than a responsible party resulting from [a] the release,  
636 provided any [third party] such claim shall be required to be finally  
637 adjudicated or settled with the prior written approval of the board  
638 before an application for reimbursement or payment is made, (4) the  
639 board determines that the cost, [is for damage that was incurred as a  
640 result of the release,] expense or other obligation is reasonable and that  
641 [the] there are not grounds for recovery specified in [subsection (b)]  
642 subdivision (1) or (3) of subsection (g) of this section, [do not exist at  
643 the time such determination is made,] (5) the responsible party notified  
644 the [board] commissioner of the release in accordance with regulations  
645 adopted pursuant to section 22a-449, as amended by this act, or, where  
646 such regulations are not applicable, as soon as practicable, [of the  
647 release,] and notified the board, as soon as practicable, of any [third

648 party] claim by a person other than a responsible party, resulting from  
649 the release, [in accordance with the regulations adopted pursuant to  
650 section 22a-449e, and] (6) the [applicant] responsible party, or, if a  
651 person other than a responsible party applies for payment or  
652 reimbursement from the account, then such person demonstrates the  
653 remediation, including any monitoring to determine the effectiveness  
654 of the remediation, for which payment or reimbursement is sought is  
655 not more stringent than that required by the remediation standards  
656 established pursuant to section 22a-133k, except to the extent the  
657 [applicant] responsible party or such person demonstrates that it has  
658 been directed otherwise, in writing, by the [Department of  
659 Environmental Protection] commissioner, (7) the responsible party, or,  
660 if a person other than a responsible party applies for payment or  
661 reimbursement from the account, then such person demonstrates that  
662 it does not have insurance, or a contract or other agreement to provide  
663 payment or reimbursement for any cost, expense or other obligation  
664 incurred in response to a release or suspected release, or if there is any  
665 such insurance, contract or other agreement, that any insurance  
666 coverage has been denied or is insufficient to cover the costs, expenses  
667 or other obligations, paid or incurred or that any contract or other  
668 agreement is not able to or is insufficient to cover the costs, expenses or  
669 other obligations, paid or incurred, for which payment or  
670 reimbursement is sought from the account, (8) the responsible party  
671 demonstrates and the board determines that one of the milestones  
672 noted in section 7 of this act has been completed, (9) the board  
673 determines what, if any, reductions to the amounts sought from the  
674 account should be made based upon the compliance evaluations  
675 performed pursuant to subsection (d) of this section, and (10) if at the  
676 time any application or request for payment or reimbursement,  
677 including any supplemental application or request, is submitted to the  
678 board, there is no underground storage tank system dispensing  
679 petroleum on the property where the release or suspected release  
680 emanated or occurred, then the responsible party demonstrates, in  
681 addition to all other applicable requirements, that lack of compliance  
682 with provisions of the general statutes and regulations governing

683 underground storage tank systems was not a proximate cause of the  
684 release or suspected release and that there are not grounds for  
685 recovery specified in subdivision (2) of subsection (g) of this section. In  
686 acting on an application or a request for payment or reimbursement,  
687 the board, using funds from the [underground storage tank petroleum  
688 clean-up] account, may contract with experts, including, but not  
689 limited to, attorneys and medical professionals, to better evaluate and  
690 defend against claims and negotiate [third party] claims by persons  
691 other than responsible parties. The costs of the board for experts shall  
692 not be charged to the amount allocated to the Department of  
693 Environmental Protection pursuant to section 22a-449c, as amended by  
694 this act. If a person other than a responsible party applies to the board  
695 claiming to have suffered bodily injury, property damage or damage  
696 to natural resources, the board shall order reimbursement or payment  
697 from the account if such person demonstrates that subdivisions (1), (2),  
698 (6) and (7) of this subsection are satisfied, the board determines that as  
699 a result of a release or suspected release such person has suffered  
700 bodily injury, property damage or damage to natural resources, that  
701 the costs, expenses or other obligations incurred are reasonable and the  
702 person submitting such claim demonstrates that it has attempted to or  
703 has provided written notice of its claim to the responsible party as  
704 required in subsection (a) of this section and that the responsible party  
705 has not applied to the board for payment or reimbursement of this  
706 claim.

707 (d) (1) Except as provided in this subsection, if at the time any  
708 application or request for payment or reimbursement is submitted to  
709 the board, including any supplemental application or request, there is  
710 an underground storage tank system dispensing petroleum on the  
711 property where the release or suspected release emanated or occurred,  
712 such application or request shall not be deemed complete and shall not  
713 be acted upon by the board unless such application or request includes  
714 a summary of the compliance status of all the underground storage  
715 tank systems on the subject property. Any such summary shall include  
716 an evaluation of compliance with the design, construction, installation,

717 notification, general operating, release detecting, system upgrading,  
718 abandonment and removal date requirements of the regulations  
719 adopted pursuant to sections 22a-449, as amended by this act, and 22a-  
720 449o and shall be prepared by an independent consultant on a form  
721 prescribed by or acceptable to the commissioner. The summary shall  
722 be based on an evaluation of said underground storage tank systems  
723 performed not more than one hundred eighty days before the board  
724 receives an application or a request for reimbursement or payment,  
725 except that with respect to any provision of the subject regulations  
726 regarding record keeping, periodic monitoring or testing, the summary  
727 shall be based on an evaluation of a one year period terminating  
728 within one hundred eighty days prior to the board's receipt of an  
729 application or a request for payment or reimbursement. The summary  
730 shall also include a full description of all corrective measures that have  
731 been taken or that are being taken with regard to any noncompliance  
732 identified in the compliance evaluation performed pursuant to this  
733 subdivision.

734 (2) With respect to any initial application or request for payment or  
735 reimbursement regarding a release or suspected release the provisions  
736 of subdivision (1) of this subsection shall apply only to applications or  
737 requests received on or after January 1, 2006. With respect to any  
738 supplemental application or request for payment or reimbursement  
739 regarding a release or suspected release, the provisions of subdivision  
740 (1) of this subsection shall apply to each application or request  
741 submitted to the board on or after January 1, 2006, regardless of when  
742 the initial application or request was submitted, except that submission  
743 of a compliance summary shall not be required if at the time a  
744 supplemental application or request is submitted, less than one year  
745 has passed since the performance of a compliance evaluation  
746 submitted with any prior application or request.

747 (3) The cost of hiring an independent consultant to perform a  
748 compliance evaluation, as required by this subsection, shall be eligible  
749 for payment or reimbursement from the account up to a maximum of  
750 one thousand dollars per compliance evaluation, provided the

751 evaluation is in conformance with the requirements of this subsection  
752 and includes all underground storage tank systems on the property  
753 where a release or suspected release emanated or occurred. If the  
754 schedule adopted by the commissioner pursuant to subsection (b) of  
755 section 22a-449e, as amended by this act, includes an amount for  
756 performing a compliance evaluation, upon adoption of any such  
757 schedule, the amount eligible for payment or reimbursement for  
758 performing a compliance evaluation shall be the amount prescribed in  
759 any such schedule.

760 (4) Nothing in this subsection shall affect the continued applicability  
761 of any decision of the board to (A) deny reimbursement or payment  
762 from the account, or (B) provide only partial payment or  
763 reimbursement regarding all applications or requests for payment or  
764 reimbursement from the account. Any such decision shall remain in  
765 effect and shall not be subject to reconsideration or reevaluation as a  
766 result of this subsection.

767 (5) Except as provided for in this subdivision, if at the time any  
768 application or request for payment or reimbursement, including any  
769 supplemental application or request, is submitted, there is no  
770 underground storage tank system dispensing petroleum on the  
771 property where the release or suspected release emanated or occurred,  
772 any such application or request shall be subject to the provisions of  
773 subdivision (10) of subsection (c) of this section, even where a prior  
774 application or request was subject to the provisions of this subsection.  
775 The provisions of this subdivision shall not apply to an application or  
776 request for payment or reimbursement for annual groundwater  
777 remedial actions, including the preparation of a groundwater remedial  
778 action progress report, performed pursuant to subdivision (6) of  
779 section 7 of this act.

780 (e) (1) If the compliance evaluation summary performed pursuant to  
781 subsection (d) of this section indicates that any of the violations noted  
782 in this subdivision exist with respect to any underground storage tank  
783 or underground storage tank system on the property at which a release



784 or suspected release occurred and any such violations have not been  
785 fully corrected by the time an application or request for reimbursement  
786 is submitted to the board, the board shall reduce any payment or  
787 amount to be reimbursed as follows: (A) A one hundred per cent  
788 reduction of the payment or amount to be reimbursed for failure to  
789 meet the tank or piping construction requirements of section 22a-449o  
790 or the regulations adopted pursuant to section 22a-449, as amended by  
791 this act, or for failure to report the release to the commissioner as  
792 required by this section, (B) a seventy-five per cent reduction of the  
793 payment or amount to be reimbursed for failure to have properly  
794 functioning cathodic protection, spill prevention, overfill prevention,  
795 or release detection as required by the regulations adopted pursuant to  
796 section 22a-449, as amended by this act. Notwithstanding the  
797 provisions of this subsection, the board may reduce any amount to be  
798 paid or reimbursed based on any other violation of the provisions of  
799 the general statutes or regulations of Connecticut state agencies  
800 regarding ownership or operation of an underground storage tank  
801 system.

802 (2) Nothing in this subsection and no determination by the board of  
803 any issue of fact or law shall affect the authority of the commissioner  
804 under any other statute or regulations, including, but not limited to,  
805 taking any enforcement action based upon the violations identified in  
806 any compliance evaluation performed pursuant to subsection (d) of  
807 this section.

808 [(b) (1) For all work or services performed or materials provided  
809 after October 1, 2004, the board shall not order payment or  
810 reimbursement from the account for any cost paid or incurred, unless  
811 the application or preauthorization request seeking payment or  
812 reimbursement is received by the board within one hundred eighty  
813 days of the date that such work or services were rendered or  
814 performed or the date that any material was provided.]

815 [(2)] (f) (1) For all work or services performed or materials provided  
816 before October 1, 2004, the board shall not order payment or

817 reimbursement from the account for any cost paid or incurred, unless  
818 when seeking payment or reimbursement, the application or  
819 [preauthorization request seeking payment or reimbursement] any  
820 submission regarding work, services or materials that have been pre-  
821 authorized by the board is received by the board on or before April 1,  
822 2005.

823 [(3)] (2) For purposes of this subsection, work or services shall be  
824 deemed rendered or performed on the date such work is rendered or  
825 performed and a material shall be deemed provided on the date a  
826 material is made available for use.

827 (3) After the effective date of this section, the board shall not order  
828 payment or reimbursement from the account for any cost, expense or  
829 other obligation, paid or incurred, unless the application or request for  
830 payment or reimbursement is received by the board not later than one  
831 year after the completion of all or substantially all of the work or  
832 activities necessary to prepare the plan or report required by the  
833 milestones set forth in section 7 of this act.

834 [(c)] (g) The Attorney General, upon the request of the board [,] or  
835 the commissioner, may institute an action in the superior court for the  
836 judicial district of Hartford to recover the amounts specified in this  
837 section from [the responsible party] any person who owns or operates  
838 an underground storage tank system at the time a release emanates or  
839 occurs from such system or any person who owns the real property on  
840 which a release emanates or occurs, provided such person owned the  
841 real property at or any time after the release emanates or occurs until  
842 the time that a final remediation action report is submitted by a  
843 licensed environmental professional or approved by the commissioner  
844 pursuant to subdivision (7) of section 7 of this act, if: (1) Prior to the  
845 occurrence of the release, the underground storage tank or  
846 underground storage tank system from which the release emanated  
847 was required by regulations adopted under section 22a-449, as  
848 amended by this act, to [be the subject of] to submit a notification to  
849 the [Commissioner of Environmental Protection] commissioner but

850 [the responsible party knowingly and intentionally failed to notify the  
851 commissioner] no such notification was provided; (2) the release  
852 results from a reckless, wilful, wanton or intentional act or omission of  
853 [a responsible party] such person or a negligent act or omission of such  
854 person that constitutes noncompliance with the general statutes or  
855 regulations governing the installation, operation and maintenance of  
856 underground storage tanks; or (3) the release occurs from an  
857 underground storage tank or system which is not in compliance with  
858 [an] a final order issued by the commissioner pursuant to this chapter  
859 or [with the general statutes and regulations governing the installation,  
860 operation and maintenance of underground storage tanks and such  
861 lack of compliance was a proximate cause of such release] a final  
862 judgment issued by a court concerning non-compliance with a  
863 requirement of this chapter; or (4) payment has been made from the  
864 account, including payment to the commissioner pursuant to  
865 subsection (i) of this section, to a person other than a person against  
866 whom an action may be brought pursuant to this subsection. All costs  
867 to the state relating to actions to recover such payments, including, but  
868 not limited to, reasonable attorneys' fees, shall initially be paid from  
869 the underground storage tank petroleum clean-up account. In any  
870 recovery the board or the commissioner is entitled to recover from [a  
871 responsible party] such person (A) all payments made [by the board]  
872 from the account with respect to a release or suspected release,  
873 [including, but not limited to, payments to third parties,] (B) all  
874 payments made by the [Department of Environmental Protection]  
875 commissioner pursuant to subsection [(d)] (i) of this section with  
876 respect to a release or suspected release, (C) interest on such payments  
877 at a rate of ten per cent per year from the date such payments were  
878 made, and (D) all costs of the state relating to actions to recover such  
879 payments, including, but not limited to, reasonable attorneys' fees. All  
880 actions brought pursuant to this section shall have precedence in the  
881 order of trial, as provided in section 52-191. If the Attorney General has  
882 filed an action against a person seeking recovery of the amounts  
883 specified in this subsection or if the commissioner sends a person a  
884 demand letter regarding costs incurred by the state pursuant to section

885 22a-451, any such person against whom an action has been brought or  
886 who receives a demand letter shall not submit an application or  
887 request for payment or reimbursement to the board seeking payment  
888 or reimbursement of any such amount sought by the Attorney General  
889 or by the commissioner. If any such application or request for payment  
890 or reimbursement is submitted, the board shall not take any action  
891 regarding any such application or request.

892 [(d)] (h) The [review] board shall render its decision not more than  
893 ninety days after receipt of an application from a [responsible party or  
894 a third party] person, provided, in the case of a second or subsequent  
895 application, the board shall render its decision not more than forty-five  
896 days after receipt of such application. A copy of the decision shall be  
897 sent to the [Commissioner of Environmental Protection] commissioner  
898 and the [applicant or responsible party] person seeking payment or  
899 reimbursement by certified mail, return receipt requested. The  
900 [Commissioner of Environmental Protection] commissioner or any  
901 person aggrieved by the decision of the board may, within twenty  
902 days from the date of issuance of such decision, request a hearing  
903 before the board in accordance with the provisions of chapter 54. After  
904 such hearing, the board shall consider the information submitted to it  
905 and affirm or modify its decision on the application. A copy of the  
906 affirmed or modified decision shall be sent to [the applicant or  
907 responsible party] all parties to the hearing by certified mail, return  
908 receipt requested. Once the board renders a decision regarding an  
909 application or request for payment or reimbursement and no hearing  
910 has been requested pursuant to this subsection regarding any such  
911 decision, the costs, expenses or other obligations addressed by any  
912 such decision shall not be resubmitted in any other application or  
913 request.

914 [(e)] (i) Whenever the commissioner determines that as a result of a  
915 release, as defined in section 22a-449a, or a suspected release, a clean-  
916 up is necessary, including, but not limited to, actions to prevent or  
917 abate pollution or a potential source of pollution and to provide  
918 potable drinking water, the commissioner may undertake such actions

919 using not more than one million dollars from the underground storage  
920 tank petroleum clean-up account for each release or suspected release  
921 from an underground storage tank or an underground storage tank  
922 system for which the responsible party is the state or for which [the] a  
923 responsible party was or would have been required to demonstrate  
924 financial responsibility under 40 CFR Part 280.90 et seq., as said  
925 regulation was published in the Federal Register of October 26, 1988.  
926 [In addition, if a responsible party refuses to pay the first ten thousand  
927 dollars of third party claims, and has not already paid ten thousand  
928 dollars of costs resulting from the release or suspected release, the  
929 commissioner shall, upon order of the board pursuant to this section,  
930 make payment or reimbursement of the first ten thousand dollars of  
931 third party claims, provided (1) no more than ten thousand dollars of  
932 third party claims shall be paid pursuant to this subsection for each  
933 release or suspected release from an underground storage tank system  
934 for which the responsible party is the state or for which the responsible  
935 party was or would have been required to demonstrate financial  
936 responsibility under 40 CFR Part 280.90 et seq., as said regulation was  
937 published in the Federal Register of October 26, 1988, and (2) that the  
938 board shall be entitled to recover such ten thousand dollars,  
939 notwithstanding the existence of the conditions specified in  
940 subdivisions (1) to (3), inclusive, of subsection (b) of this section.]

941 (j) (1) If through an initial application or request for payment or  
942 reimbursement received by the board before June 1, 2005, the board  
943 has determined that a person has paid or incurred costs, expenses or  
944 other obligations that are eligible for payment or reimbursement from  
945 the account, with respect to any supplemental application or request  
946 for payment or reimbursement the following shall apply. The  
947 commissioner may identify a category of activities, costs, expenses, or  
948 other obligations that are less than one hundred thousand dollars for  
949 which, in lieu of full payment, the board may approve a percentage of  
950 the costs, expenses or other obligations paid or incurred. In making  
951 any such recommendation to the board, the commissioner shall  
952 consider the amounts previously paid from the account and any other

953 information the commissioner deems relevant. Any such percentage  
954 shall be not more than, but may be less than, ninety per cent of the  
955 average amount, as determined by the commissioner, previously paid  
956 from the account for any activity, cost, expense or obligation. The  
957 board shall approve or disapprove, but shall not modify, payment of  
958 the percentage recommended by the commissioner pursuant to this  
959 subdivision. The commissioner may, using the procedures specified in  
960 this subdivision, recommend changes to any percentage previously  
961 approved by the board under this subdivision.

962 (2) If the board approves payment of the percentage recommended  
963 by the commissioner, a person with a supplemental application or  
964 request for payment or reimbursement may agree to accept the  
965 percentage payment approved by the board. Any such acceptance  
966 shall be in writing, signed by the person seeking payment or  
967 reimbursement and shall acknowledge that the person is agreeing to  
968 accept less than the full amount sought by such person for the costs,  
969 expenses or other obligations covered by such acceptance. If the  
970 commissioner has prescribed forms, any such acceptance shall be  
971 made using the forms prescribed by the commissioner. Once a  
972 completed written acceptance is received, the board shall, not later  
973 than ninety days after receiving such acceptance, determine whether to  
974 order payment or reimbursement from the account. Any such  
975 determination by the board shall be limited to whether the costs,  
976 expenses or other obligations are within those for which the board has  
977 approved payment pursuant to subdivision (1) of this subsection.

978 (3) Any amount ordered to be paid or reimbursed by the board shall  
979 be considered full payment for any such activity, expense or other  
980 obligation and a person shall not seek any additional reimbursement  
981 from the account for any such activity, expense or other obligation. The  
982 categories or activities for which the commissioner recommends  
983 payment of a percentage pursuant to this subsection may constitute all  
984 or a portion of the amounts sought in a supplemental application or  
985 supplemental request for payment or reimbursement.

986     (k) Notification to the commissioner pursuant to regulations  
987     adopted pursuant to section 22a-449, as amended by this act, shall  
988     constitute compliance with any regulation adopted pursuant to section  
989     22a-449e, as amended by this act, regarding notification to the board of  
990     a release.

991     Sec. 7. (NEW) (*Effective from passage*) Notwithstanding any provision  
992     of sections 22a-449a to 22a-449i, inclusive, of the general statutes, as  
993     amended by this act, or any regulation adopted pursuant to said  
994     sections, except as provided for in subdivision (6) of this section, with  
995     respect to the investigation and remediation of a release, the  
996     underground storage tank clean-up account established pursuant to  
997     section 22a-449c of the general statutes, as amended by this act, shall  
998     be used to provide payment or reimbursement only when any of the  
999     following milestones are completed:

1000     (1) A release response report prepared by an environmental  
1001     professional, as defined in section 22a-133v of the general statutes, has  
1002     been submitted to the Commissioner of Environmental Protection  
1003     which report describes: (A) All initial response actions taken that are  
1004     necessary to prevent an on-going release and to mitigate an explosion,  
1005     fire or other safety hazard resulting from the release, (B) the results of  
1006     an initial site investigation that determines the presence and extent of  
1007     free product from the release, the potential for or existence of  
1008     groundwater pollution from the release which threatens the quality of  
1009     drinking water well or wells, and whether the release has resulted in  
1010     soil vapors or indoor air that threatens public health, and (C) all  
1011     interim actions taken and proposed to remove such free product to the  
1012     extent technically practicable, to provide potable water to any person  
1013     whose drinking water has been polluted by a substance from the  
1014     release which is above the groundwater protection criteria or above a  
1015     level determined by the Commissioner of Public Health to be an  
1016     unacceptable risk of injury to the health or safety of persons using such  
1017     groundwater as a public or private source of water for drinking or  
1018     other personal or domestic uses, whichever is more stringent, and to  
1019     mitigate any risk to public health from polluted soil vapor or indoor

1020 air resulting from the release.

1021 (2) An interim remedial action report approved, in writing, by a  
1022 licensed environmental professional has been submitted to the  
1023 Commissioner of Environmental Protection or an interim remedial  
1024 action report has been approved, in writing, by the commissioner.  
1025 Such interim remedial action report shall describe in detail all interim  
1026 remedial action taken to: (A) Remove free product to the maximum  
1027 extent technically practicable; (B) ensure that all persons whose  
1028 drinking water was polluted by the release have been provided  
1029 potable water; and (C) ensure that soil vapors which pose a risk to  
1030 public health are prevented from migrating into any overlying  
1031 buildings.

1032 (3) An investigation report and remedial action plan approved, in  
1033 writing, by a licensed environmental professional has been submitted  
1034 to the Commissioner of Environmental Protection, or an investigation  
1035 report and remedial action plan has been approved, in writing, by the  
1036 commissioner. Such investigation report and remedial action plan shall  
1037 include a detailed description of an investigation which determines the  
1038 existing and potential extent and degree of soil, surface water, soil  
1039 vapor and groundwater pollution, on and off-site, resulting from the  
1040 release and describes all actions proposed to remediate soil, surface  
1041 water, air or groundwater polluted by the release in accordance with  
1042 the regulations adopted pursuant to section 22a-133k of the general  
1043 statutes.

1044 (4) A soil remedial action report approved, in writing, by a licensed  
1045 environmental professional has been submitted to the Commissioner  
1046 of Environmental Protection, or a soil remedial action report has been  
1047 approved, in writing, by the commissioner. Such soil remedial action  
1048 report shall describe in detail the extent of soil pollution resulting from  
1049 the release, all remedial actions taken to abate such soil pollution, and  
1050 all documentation that demonstrates that such soil pollution has been  
1051 remediated in accordance with the regulations adopted pursuant to  
1052 section 22a-133k of the general statutes.



1053 (5) A groundwater remedial action progress report approved, in  
1054 writing, by a licensed environmental professional has been submitted  
1055 to the Commissioner of Environmental Protection or a groundwater  
1056 remedial action progress report has been approved, in writing, by the  
1057 commissioner. Such report may only be submitted after all  
1058 construction necessary to implement the approved groundwater  
1059 remedial actions have been completed and that the groundwater  
1060 remedial actions have been operated and monitored for one year. Such  
1061 report shall include a detailed description of the remedial actions, the  
1062 results of groundwater or any other monitoring conducted, an analysis  
1063 of whether the remedial actions are effective, and a proposal for any  
1064 changes in the groundwater remedial actions and monitoring that may  
1065 be necessary to achieve compliance with the regulations adopted  
1066 pursuant to section 22a-133k of the general statutes.

1067 (6) An annual groundwater remedial action progress report  
1068 approved, in writing, by a licensed environmental professional has  
1069 been submitted to the Commissioner of Environmental Protection or  
1070 approved, in writing, by the commissioner. Such report shall include a  
1071 detailed description of the remedial actions, the results of groundwater  
1072 or any other monitoring conducted for the year covered by the report,  
1073 an analysis of whether the remedial actions are effective, and a  
1074 proposal for any changes in the groundwater remedial actions and  
1075 monitoring that may be necessary to achieve compliance with the  
1076 regulations adopted pursuant to section 22a-133k of the general  
1077 statutes. A responsible party of section 22a-449f of the general statutes,  
1078 as amended by this act, may submit to the board up to, but not more  
1079 than, four separate applications or requests for payment or  
1080 reimbursement in a calendar year regarding costs, expenses or  
1081 obligations paid or incurred concerning annual groundwater  
1082 monitoring or compliance with this subdivision.

1083 (7) A final remedial action report approved by a licensed  
1084 environmental professional has been submitted to the Commissioner  
1085 of Environmental Protection, or a final remedial action report has been  
1086 approved, in writing, by the commissioner that documents that the

1087 release has been investigated in accordance with prevailing standards  
1088 and guidelines and that the soil, surface water, groundwater and air  
1089 polluted by the release has been remediated in accordance with the  
1090 regulations adopted pursuant to section 22a-133k of the general  
1091 statutes.

1092 (8) The Commissioner of Environmental Protection may adopt  
1093 regulations, in accordance with the provisions of chapter 54 of the  
1094 general statutes, establishing milestones for investigation and  
1095 remediation of releases or suspected releases from underground  
1096 storage tank systems, including milestones that differ from those set  
1097 forth in this section. Upon the adoption of such regulations, the  
1098 milestones for investigation and remediation for which payment or  
1099 reimbursement is available from the account shall be those set forth in  
1100 the regulations.

1101 (9) This section shall apply to an application or request for  
1102 reimbursement or payment received by the board on or after October  
1103 1, 2005, regardless of when the release or suspected release occurred,  
1104 whether actions in response to the release or suspected release have  
1105 already occurred or whether prior applications or requests seeking  
1106 payment or reimbursement have already been submitted to the board.

1107 Sec. 8. (*Effective from passage*) Not later than one hundred eighty  
1108 days after the effective date of this section, the Commissioner of  
1109 Environmental Protection, in consultation with the board, shall  
1110 develop and implement a plan for processing applications submitted  
1111 to the board, with emphasis on applications that were submitted  
1112 before June 30, 2005. Such plan may include, but need not be limited  
1113 to, expedited procedures for processing certain categories of  
1114 applications, identifying, providing notice of and processing  
1115 incomplete applications, and providing assistance to applicants on  
1116 how to submit complete applications. At six-month intervals, until July  
1117 31, 2007, the commissioner shall provide the board with updates  
1118 regarding the implementation of such plan. On or before July 31, 2007,  
1119 the commissioner shall prepare a report describing the progress

1120 regarding processing of applications that were submitted before June  
 1121 30, 2005, estimated results achieved by utilizing new or revised  
 1122 procedures, the number and amount of applications pending and any  
 1123 recommendations for further improvements. Prior to implementing  
 1124 the plan required by this section, the commissioner shall seek comment  
 1125 from the public.

1126 Sec. 9. Section 145 of public act 03-6 of the June 30 special session, as  
 1127 amended by section 1 of public act 04-244, is repealed. (*Effective from*  
 1128 *passage*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-449
Sec. 2	<i>from passage</i>	22a-449a
Sec. 3	<i>from passage</i>	22a-449c
Sec. 4	<i>from passage</i>	22a-449d
Sec. 5	<i>from passage</i>	22a-449e
Sec. 6	<i>from passage</i>	22a-449f
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	Repealer section